IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NOs : 13014 of 2005, 13015 of 2005 and 13019 of 2005

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1) WRIT PETITION NO : 13014 of 2005

Between:

S.Venkateswara Rao, S/o.Nooka Raju,
R/o.C.Rayavaram Village, Yeleswaram Mandal, East Godavari District.

..... PETITIONER

AND

1 The Dy.Director, Mines and Geology, Kakinada, E.G.District.
2 Asst. Director Mines and Geology, Rajahmundry E.G.District.
3 Executive Engineer, Irrigation Department YRC Division, Yeleswaram, E.G.District.
4 Prl. Secretary to Government and Commissioner for Industrial Promotion, Govt. of A.P., Industries and Commerce (Mines.II) Department, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, direction or order more particularly in the nature of writ of certiorari calling for records from the office of the 1st respondent pertaining to the impugned order No.4048/Q/99 dt.16.4.2005 cancelling the quarry leases in his favour in an extent of Ac.0.50 cents (00.20 hectaacres) in Sy.No.54 of Yeleswaram Village, E.G District and to quash the same holding that it is illegal, arbitrary malafide and against the principles of Natural Justice and to consequently direct the respondents to continue the petitioner quary lease till expires under its terms.

Counsel for the Petitioner: MR.K.SARVA BHOUMA RAO

Counsel for the Respondents :G.P. FOR INDUSTRIES & COMMERCE

2) WRIT PETITION NO : 13015 of 2005:

Between:

P. Harichandra Reddy, s/o Rama Reddy,
R/o C. Rayavaram Village, Yeleswaram Mandal, East Godavari District.

..... PETITIONER

AND

1 Deputy Director, Mines and Geology, Kakinada, E.G. District.
2 Assistant Director, Mines and Geology, Rajahmundry, E.G. District.
3 Executive Engineer, Irrigation Department, YRC Division,
Yeleswaram, E.G. District.
4 Prl. Secretary to Government and Commissioner for Industrial Promotion,
Government of Andhra Pradesh, Industries and Commerce (Mines.II)
Department, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, direction or order more particularly in the nature of Writ of Certiorari calling for records from the office of the 1st respondent pertaining to the impugned order No. 3755/Q/90 dated 16.4.2005 cancelling the quarry leases in his favour in an extent of Ac. 0.40 cents in Sy.No. 54 of Yeleswaram Village, East Godavari District, and to quash the same holding that it is illegal, arbitrary, malafide and against the principles of Natural Justice and to consequently direct the respondents to continue the petitioner Quary lease till if expires under its terms and pass such other further order or orders as this Hon'ble Court may deem fit and and proper in the circumstances of the case.

Counsel for the Petitioner: MR.K.SARVA BHOUMA RAO

Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE

3) WRIT PETITION NO : 13019 of 2005:

Between:

S. Krishna, S/o. Nooka Raju,
R/o. C. Rayavaram village, Yeleswaram Mandal,

East Godavari District.

..... PETITIONER

AND

1 Deputy Director, Mines and Geology, Kakinada, East Godavari District.
2 Assistant Director, Mines and Geology, Rajahmundry, East Godavari District.
3 Executive Engineer, Irrigation Department, YRC Division,
Yeleswaram, East Godavari District.
4 Principal Secretary to Government and Commissioner for Industrial
Promotion, Government of Andhra Pradesh, Industries and Commerce
(Mines.II) Department, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, direction or order more particularly in the nature of Writ of Certiorari calling for records from the office of the 1st respondent pertaining to the impugned order No. 3755/Q/2001 dated 16-4-2005 cancelling the quarry leases in his favour in an extent of
Ac. 0-98 cents (00.405 hectacres) in Sy.No. 54 of Yeleswaram Village, East Godavari District, and to quash the same holding that it is illegal, arbitrary, malafide and against the principles of natural justice and to consequently direct the respondents to continue the petitioner Quarry lease till if expires under its terms.

Counsel for the Petitioner: MR.K.SARVA BHOUMA RAO

Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE

The Court made the following :

COMMON ORDER:

Since common point is involved in all the above three Writ Petitions, they are being taken up together for disposal.

The petitioners filed their respective Writ Petitions challenging the respective impugned orders of the respondents –all dated 16.04.2005- and for a consequential direction to the respondents to continue the leases of the petitioners till their expiry.

The case of the petitioners is that they were granted lease to quarry for road metal in various extents in survey no.54 of Yeleswaram village of East Godavari district for various periods and they were

carrying on the same as per the terms and conditions of the leases. It is submitted that as per the recommendations of the expert committee, appointed as per the directions of this Court in Writ Petition Nos. 8179 of 1993 and batch dated 08.07.1993, the operations of the petitioners are carried on beyond 400 meters from the Yaleswaram Reservoir Project Head works. But, the first respondent issued the impugned orders on 16.04.2005 straightaway cancelling the leases of the petitioners, on the ground that all the quarries within a radius of 500 meters from the reservoir are liable to be cancelled, which is arbitrary and without giving any opportunity to the petitioners. Hence, the Writ Petitions.

The learned counsel for the petitioners contended that the action of the respondents in cancelling the leases of the petitioners without any opportunity to them and that fixation of 500 meters of radius from the Yaleswaram project as prohibited area for quarrying, has no basis.

The learned Government Pleader submits that on the request of the third respondent, the second respondent, after thorough survey and inspection along with concerned officials, submitted proposals to the first respondent for cancellation of total 11 leases falling within 500 meters from the Yaleswaram Reservoir project. It is further submitted that as per the order dated 20.07.2004, the District Collector, Kakinada constituted a committee with the Joint Collector as Chairman and the Superintending Engineers of Yaleswaram Reservoir Project and irrigation circle, Dowlaiswaram as members, to study metal quarrying activity vis-à-vis endanger to the project, and the committee submitted a report on 13.09.2004. Accordingly, the matter was considered, and by virtue of the terms and conditions of the leases, two months' notices were given for determination of the leases in the public interest as required under Rule 31 (xviii) of the A.P. Minor Mineral Concession Rules, 1966 (for short, 'the Rules')

and the Government has power to do so under the said Rule, and hence, there is no irregularity or illegality in issuing the impugned orders. Hence, the Writ Petitions are liable to be dismissed.

Considering the submissions made and on perusal of the material, it is seen that after considering the recommendations of the expert committee appointed by the District Collector, the Government came to the conclusion to prohibit quarrying within a radius of 500 meters from the Yaleswaram Reservoir Project, in the public interest and to protect the project head works. The authorities have taken the decision after conducting elaborate survey and on the basis of the report of the expert committee in the public interest under Rule 31 (xviii) of the Rules. More over, the impugned orders are show-cause notices issued to the petitioners contemplating to determine their respective leases after the lapse of two months' period from the said date, as contemplated under the Rules. Therefore, I see no reason to interdict the same in exercise of powers under Article 226 of the Constitution of India.

The Writ Petitions are, accordingly, dismissed. No order as to the costs.

29.06.2005

DRK

Copy to:

1 The Dy.Director, Mines and Geology, Kakinada, E.G.District.
2 The Asst. Director Mines and Geology, Rajahmundry E.G.District.
3 The Executive Engineer, Irrigation Department YRC Division, Yeleswaram, E.G.District.
4 Prl. Secretary to Government and Commissioner for Industrial Promotion, Govt. of A.P., Industries and Commerce (Mines.II) Department, Hyderabad

5 Two CCs to the G.P. for Industries and Commerce, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

6 Two CD copies.